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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,051	03/16/2004	Christopher K. Yakes	061300-0216A	9306

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EXAMINER

GIBSON, ERIC M

ART UNIT PAPER NUMBER

3661

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,051

Applicant(s)

YAKES ET AL.

Examiner

Eric M Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-41 and 44-82 is/are pending in the application.
- 4a) Of the above claim(s) 44-82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 39-41 and 44-82 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/24/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I (Claims 39-41) in the reply filed on 8/5/2004 is acknowledged.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 39-41, drawn to a method of transferring information to potential customers over the Internet, classified in class 705, subclass 27.

II. Claims 44-82, drawn to an electric vehicle, classified in class 701, subclass 22.

a. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the method of transferring the data to potential customers over the Internet does not require the specific details of the electric vehicle. The claimed method steps of obtaining information, entering the information, and transmitting the information apply generically to any product and the specific recital that the information is about an electric vehicle is not required in order to implement the

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claimed method steps. The subcombination has separate utility such as an electric vehicle.

b. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

c. Applicant's election with traverse of claims 39-41 in the reply filed on 1/14/2005 is acknowledged. The traversal is on the ground(s) that the combination requires the particulars of independent claim 44. This is not found persuasive because obtaining information is generic to any information and does not require any steps that depend on what the information contains.

d. The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pulliam et al. (US006609108B1) in view of Brubaker (US004719361A).

a. As per claim 39, Pulliam teaches a method of transferring data of a vehicle to potential customers over the Internet including obtaining information on the vehicle (column 11, lines 26-35), entering the information on to a terminal connected to the Internet (column 11, lines 1-3), and transmitting the information from the terminal to the Internet (column 11, lines 4-25). Pulliam does not explicitly teach a truck type of electronic traction vehicle. However, the method described by Pulliam is generic and applicable to any and all vehicles, regardless of model, type, or specific features. One of ordinary skill in the art at the time of the invention would know how to modify the method of Pulliam in order to represent the specific attributes of a particular vehicle, including a truck type of electric vehicle. Brubaker discloses one of many known truck type electronic traction vehicles in the art. Transmitting information about this type of vehicle, just as with any other type of vehicle, would be obvious to one of ordinary skill in the art at the time of the invention.

b. As per claim 40, Pulliam teaches using a computer as a terminal (column 7, lines 46-53).

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c. As per claim 41, Pulliam teaches that the information about the vehicle can include price, shipping data, type, and specification information (see for example claims 7 and 8).

### ***Response to Arguments***

4. Applicant's arguments filed 1/14/2005 have been fully considered but they are not persuasive. The Examiner disagrees with the applicant's arguments that it is not obvious to obtain and transmit information on a truck type of electronic traction vehicle, because it is not a "consumer" vehicle as disclosed in Pulliam. Truck type electronic traction vehicles have consumers, just as any other product. Whether those consumers are the public at large, or the government, does not matter. Furthermore, many vehicles that began as military vehicles, ended up becoming available to the general public. The Examiner asserts official notice of the Jeep and Humvee vehicles as examples of military vehicles that eventually became available to the general public.

5. The Examiner also notes that the scope of independent claim 39 is quite broad. It claims obtaining information, entering the information onto a terminal, and transmitting the information over the Internet. The applicant argues that because the information that is being obtained, entered, and transmitted, is about a specific type of truck type electronic traction vehicle that obtaining, entering, and transmitting the information is not obvious. The Examiner disagrees. Otherwise, any inventor could obtain a patent that controls the dissemination of the information contained in the patent by using a claim structure such as the applicant's.

***Conclusion***

The references made of record and not relied upon are considered pertinent to applicant's disclosure. Anabtawi et al. (US2003/0046179A1) teaches a vehicle shopping and buying system and method.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M Gibson whose telephone number is 571-272-6960. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached at (571)272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EMG

  
MICHAEL J. ZANELLI  
PRIMARY EXAMINER